

61.5956 Optional 401(a) money purchase plan for new nonhazardous members who begin participating in KERS or CERS on or after January 1, 2019. (Declared void -- See LRC Note Below)

- (1)
 - (a) The retirement benefit provided by this section shall be known as the 401(a) money purchase plan and shall operate as an optional benefit tier within the Kentucky Employees Retirement System or the County Employees Retirement System, as applicable, for members in a nonhazardous position.
 - (b) A member participating in a nonhazardous position in the Kentucky Employees Retirement System or the County Employees Retirement System whose participation in the systems begins on or after July 1, 2019, may elect within ninety (90) days of his or her membership date to receive the retirement benefits provided by this section in lieu of the hybrid cash balance retirement benefits provided under KRS 61.597. A member in a nonhazardous position whose participation in the Kentucky Employees Retirement System or County Employees Retirement System begins on or after January 1, 2019, but prior to July 1, 2019, may elect within ninety (90) days of July 1, 2019, to receive the benefits provided by this section in lieu of the hybrid cash balance plan retirement benefits provided under KRS 61.597 and have his or her accumulated account balance in the hybrid cash balance plan transferred to the 401(a) money purchase plan. An election to participate in the 401(a) money purchase plan shall be irrevocable and shall apply to any future service as a nonhazardous member participating in the Kentucky Employees Retirement System or the County Employees Retirement System.
 - (c) Any member or person who makes an election as prescribed by KRS 21.374 shall accrue the retirement benefits provided by this section in lieu of accruing additional benefits under KRS 21.345 to 21.580, 61.510(14), 61.595, or 61.597.
 - (d) Any member who makes an election as prescribed by KRS 61.5955 shall accrue the retirement benefits provided by this section in lieu of accruing additional final compensation and retirement benefits under KRS 61.510(14), 61.595, 61.597, or 78.510(14).
- (2) The 401(a) money purchase plan shall be a mandatory defined contribution plan and shall provide a retirement benefit based upon the member's accumulated account balance, which shall include:
 - (a) Contributions made by the member as provided by KRS 61.510 to 61.705 and 78.510 to 78.852, except for employee contributions prescribed by KRS 61.702(2)(b);
 - (b) An employer contribution of four percent (4%) of the creditable compensation earned by the employee for each month the employee is contributing to the 401(a) money purchase plan provided by this section; and
 - (c) Investment returns on employee and employer contributions. Investment returns on the employee and employer contributions shall be net of administrative expenses and investment fees and expenses.

- (3)
 - (a) Member contributions and employer contributions as provided by subsection (2)(a) and (b) of this section shall be credited to the member's account monthly as contributions are reported and posted to the system in accordance with KRS 61.675 or 78.625.
 - (b) Investment returns shall be determined based upon the investment program established by the board, which may include but not be limited to a program that invests in system assets or asset classes, a program that provides investment options selected or authorized by the board internally or through an external vendor, or investment options provided through an agreement with the Kentucky Employees Deferred Compensation Authority.
- (4)
 - (a) Upon termination of employment, a member who has less than five (5) years of service credited under KRS 16.543(1), 61.543(1), and 78.615(1), or another state-administered retirement system who elects to take a refund of his or her accumulated account balance as provided by KRS 61.625, shall forfeit the accumulated employer contribution, and shall only receive a refund of his or her accumulated contributions.
 - (b) Upon termination of employment, a member who has five (5) or more years of service credited under KRS 16.543(1), 61.543(1), and 78.615(1), or another state-administered retirement system who elects to take a refund of his or her accumulated account balance as provided by KRS 61.625, shall receive a full refund of his or her accumulated account balance.
- (5) A member participating in the 401(a) money purchase plan provided by this section may retire:
 - (a) At his or her normal retirement date, if he or she has earned five (5) or more years of service credited under KRS 16.543(1), 61.543(1), 78.615(1), or another state-administered retirement system;
 - (b) If the member is at least age fifty-seven (57) and has an age and years of service total of at least eighty-seven (87) years. The years of service used to determine eligibility for retirement under this paragraph shall only include years of service credited under KRS 16.543(1), 61.543(1), 78.615(1), or another state-administered retirement system; or
 - (c) Immediately for those members electing to participate in the 401(a) money purchase plan as described by subsection (1)(c) to (d) of this section if he or she is otherwise eligible to retire from the systems administered by Kentucky Retirement Systems.
- (6) A member eligible to retire under subsection (5) of this section may elect to:
 - (a) Receive a monthly retirement allowance payable for life by having his or her accumulated account balance in the 401(a) defined contribution plan annuitized by the retirement systems in accordance with the actuarial assumptions and actuarial methods adopted by the board and in effect on the member's retirement date;
 - (b) Receive the actuarial equivalent of his or her retirement allowance calculated under paragraph (a) of this subsection payable under one (1) of the options set

- forth in KRS 61.635, except for the option provided by KRS 61.635(11); or
- (c) Take a refund of his or her account balance as provided by KRS 61.625.
- (7) Members who are participating in the 401(a) defined contribution plan as described by subsection (1)(c) to (d) of this section upon retirement may:
- (a) Elect to annuitize only the portion of their accumulated account balance that was accrued in the 401(a) money purchase plan; or
 - (b) Elect to take a refund of his or her account balance accrued solely while participating in the 401(a) money purchase plan. The provisions of this paragraph shall not prohibit a member from receiving a monthly benefit under KRS 61.595 for service accrued in the systems prior to participating in the 401(a) money purchase plan.
- (8) The provisions of this section shall not apply to members who began participating in the systems or plans administered by Kentucky Retirement Systems prior to July 1, 2019, unless the member makes an election as provided by this section or by KRS 21.374 or 61.5955.

Effective: July 14, 2018

History: Created 2018 Ky. Acts ch. 107, sec. 12, effective July 14, 2018.

Legislative Research Commission Note (12/13/2018). On December 13, 2018, the Kentucky Supreme Court ruled that the passage of 2018 SB 151 (2018 Ky. Acts ch. 107), did not comply with the three-readings rule of Kentucky Constitution Section 46 and that the legislation is, therefore, constitutionally invalid and declared void. This statute was created in Section 12 of that Act.